

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN E. FELGAR

Petitioner

vs.

CIVIL ACTION NO. 04-196E

PA BOARD OF PROBATION AND
PAROLE, ET AL.

Respondent

MOTION FOR A PRELIMINARY INJUNCTION

Petitioner's claims for injunctive relief are authorized by 28 U.S.C. § 2283 and 2284 and Rule 65(a) of the Federal Rules of Civil Procedure. This Court has supplemental jurisdiction over Petitioner's state law claims under 28 U.S.C. § 1367 and 28 U.S.C. § 2254.

The Petitioner requests for injunctive relief from, and avers the following:

- 1) On October 29, 2004, the Respondent submitted an answer in the above-captioned matter, which was in contrast to the Petitioner's sentence Status Sheet (DC-16E).
- 2) Petitioner avers that the Respondents copy of the (DC-16E) Sentence Status Sheet which was submitted to the District Court as evidence in their Appendix, omits Terrorist Threats (5) years Probation.
- 3) Petitioner avers that the same copy of the (DC-16E) was submitted to the District Court in the Petitioner's Answer to Respondent's Answer which does [REDACTED] reflect Terroristic Threats (5) years probation. See, Appendix (A), Official Inmate Grievance Response, dated April 4, 2005.

- 4) Wherefore, Petitioner requests for a Preliminary Injunction to prohibit the PA Board of Probation and Parole, Jeffrey D. Burkett, District Attorney of Jefferson County, their successor's in Office, agents, and employees and all other persons acting in concert and participating with them, from:
 - A) Enforcing a concurrent probationary term upon the Petitioner's re-calculated maximum sentence expiration release date of October 10, 2005, which the Petitioner would be subjected to retaliation and an ongoing violation of his constitutional rights causing immediate and irreparable injury, which loss or damage would result. Campos v. Coughlin, 854 F.Supp. 194, 204 (SDNY 1994).
 - B) Any further collection of fines, cost, restitution, and any money owed in the above-captioned matter pursuant to Docket No. 632-01 at Jefferson County Common Pleas Court, until the disposition and/or judgment is final.
- 5) Petitioner avers that he has suffered greatly by Officials' unlawful acts and that the balance of hardships weigh more on the Petitioner. See, Eng v. Smith, 849 F.2d 80 (2nd 1988).
- 6) Petitioner avers that it is in the public's interest to grant this Preliminary Injunction where the public expects government officials to obey the constitution and other laws. See, Washington v. Reno, 35 F.3d 1093, 1103 (6th Cir. 1994).

WHEREFORE, Petitioner requests this Court to grant injunctive relief until the disposition in this case is final and/or ORDER a hearing for Respondents to Show Cause why a preliminary injunction should not issue pursuant to Rule 65(a).

Respectfully submitted,

Date: 9-5-05

John E. Felgar
John E. Felgar, #FB#616
10745 Route 18
Albion, PA 16475-0002

APPENDIX A

DC-AD M804, Inmate Grievance System
DC-804
Part 2

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001

Attachment B

OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO. 113165

TO: (Inmate Name & DC No.)	FACILITY	HOUSING LOCATION	GRIEVANCE DATE
FELGAR, John FB-9616	SCI-ALBION	G/C 2	03/24/05

The following is a summary of my findings regarding your grievance:

The 16E dated 7/22/04, which is contained in your file and is the latest version, does reflect the charge of Terr. Threats as a non-incarcerated offense with a sentence of 5y probation.

RESOLVED: _____ DATE: _____
Inmate Signature

UNRESOLVED: John Felgar DATE: 7/24/05
Inmate Signature

cc: Original-Ms. McWilliams
Grievance Officer
Inmate
DC-15

WAR 4-4-5

Print Name and Title of Grievance Officer	SIGNATURE OF GRIEVANCE OFFICER	DATE
C. Gill/Records Supervisor	<u>[Signature]</u>	<u>7/24/05</u>

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Respondent

ORDER TO SHOW CAUSE FOR A PRELIMINARY INJUNCTION

AND NOW, to wit, this _____ day of _____, 2005, upon the Application for Writ of Habeas Corpus, Affidavit of Petitioner, and the memorandum of law submitted within the Petitioner's Answer Petition to Respondent's Answer to Writ of Habeas Corpus, it is **ORDERED** that Respondent's, et al., Show Cause in room _____ of the United States Courthouse _____ at _____, PA, on the day of _____, 200 ____, at _____ O'clock, as why a Preliminary Injunction should not issue pursuant to Rule 65(a) of the Federal Rules of Civil Procedure enjoining the Respondents, their successors in Office, Agents and Employees, and all other persons acting in concert and participating with them, from:

- A) Collection of fines, costs, and any moneys owed in the above-captioned matter pursuant to Docket No. 632-01 at Jefferson County Common Pleas Court, until the disposition and/or judgment is final.

- B) Enforcing a concurrent probationary term upon the Petitioner's release and maximum sentence expiration on October 10, 2005.

IT IS FURTHER ORDERED that the Order to Show Cause, and all other papers attached to this Application, be served on the aforesaid Respondent by the United States Marshall by

_____.

United States District Magistrate Judge

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF PENNSYLVANIA

AFFIDAVIT AND PROOF OF SERVICE

I certify that this document was given to prison officials; for forwarding to the Federal Court. I certify under penalty of perjury that the foregoing is true and correct. 28 U.S.C. SEC. 1746.

Office of Attorney General
Commonwealth of PA.
564 Forbes Ave.
Maner Complex, 6TH Floor
Pittsburgh, PA. 15219
(1) Copy

Clerk's Office
UNITED STATES DISTRICT COURT
P.O. BOX 1820
ERIE, PENNSYLVANIA 16507
(1) Original & (1) Copy

Executed on: _____

9-5-05
DATE

John E. Felgar
John E. Felgar, Pro Se